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Chaddsford  
Planning  
ASSOCIATES

Robert A. Bucceri

April 7, 1999

Mr. Donald V. Hammond,  
Fiscal Assistant Secretary  
U.S. Department of Treasury  
Room 2112  
1500 Pennsylvania Ave. N.W.  
Washington, DC 20227

Reference: Request for Comment—Advanced Notice of Proposed Rule Making,  
Regulation Regarding Access to Accounts at Financial Institutions Through Payment  
Service Providers

Dear Mr. Hammond:

The following is in response to your request for comment concerning the above-referenced  
Notice.

Chaddsford Planning Associates provides business development, policy analysis and other  
consultative services to both private sector and government clients on matters involving  
electronic-funds transfer.

For more than twelve years I personally have been active in the design and implementation  
of a variety of products, which have brought basic financial services to thousands of  
consumers without regular access to basic banking services. For the last two years I have  
actively followed development of your EFT 99 program, participating in several Treasury-  
sponsored events on behalf of Chaddsford Planning Associates' clients.

We appreciate the many months of hard work by Treasury staff in researching and  
analyzing the financial habits and needs of the population segment known colloquially as  
the "unbanked." Having spent many years working with these consumers in electronic  
benefits transfer and other benefit distribution programs, we understand the lack of data  
regarding this market, and we appreciate your efforts to compile this data and create an  
EFT 99 program based on fact, rather than anecdote.

I have restricted our comments to the issues the Financial Management Service (FMS) has  
raised in its ANPRM.

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## Background

As we understand it, FMS is considering regulations that would govern arrangements between financial institutions and so-called "non-bank payment service providers" (referred to herein as "Providers") where such arrangements include the electronic deposit of federal benefits into a recipient's account, and the access of those benefits through a Provider, rather than the bank's access infrastructure (ATMs or POS terminals).

## Issues for Comment

FMS has raised the following issues for which we have provided comment.

### ***Should Treasury regulate or prohibit arrangements between financial institutions and payment service Providers?***

Such regulation or prohibition seems, at this point, to be unwarranted. There are four reasons for this:

1. *Intent.* Congress, in the Debt Consolidation Improvement Act of 1996, sought to reduce the cost of benefits distribution by using the nation's commercial electronic-funds transfer infrastructure to disburse payments. In the U.S. we are fortunate to have an EFT industry that includes national and regional ATM networks, POS networks, ACH associations, third-party processors, and other private providers of service. We do not believe that there was ever intent in the law to endorse any one technology over another for the purpose of payments distribution.

We understand that the Act gives the Secretary great latitude in how the law is to be implemented. However, we believe that to regulate one segment of the industry, such as Providers, or worse, to prohibit their participation, is reactive and was not contemplated in the original intention of the law.

2. *Consumer Choice.* To regulate or prohibit participation of Providers in electronic benefits distribution deprives consumers of another vehicle by which they may obtain their benefits. By luck or design, there are now multiple paths emerging for benefits access. These include traditional direct deposit, electronic transaction accounts (ETAs), access to federal benefits via state EBT programs, and partnerships between financial institutions and Providers.

No recipient is compelled to choose one path over another. In fact, in your March 2, 1999 testimony before the House Committee on Banking and Financial Services' Subcommittee on General Oversight and Investigations, you stated: "One of the most important considerations in implementing EFT 99 is to ensure that Federal payment recipients, particularly recipients of Federal benefit, salary, and retirement payments, are aware of and understand their options and choices under the program."

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To restrict or prohibit Provider-vended products, which consumers continue to endorse in ever-increasing numbers, defies this principle of consumer choice.

3. *Public Interest.* Providers, as the free market often does, reacted quickly to the need for electronic-benefits products, and in the past two years have designed products which consumers are using in ever-increasing numbers. This trend is already contributing to our government's goal of reducing the number of paper payments. Nevertheless, some commenters may wish to stifle this growth. We do not believe that any such intervention on the part of government is warranted in the absence of a showing that these products are deleterious to the public good. On the contrary, these products have provided another consumer option, and are already assisting Treasury in complying with the DCIA.
4. *Competition.* Provider-vended products have entered a crowded market. As previously stated the soon-to-be-available ETAs will join Provider products, state-administered EBT systems, and direct deposit as vehicles for benefits distribution. We believe that competition among these products will ultimately result in lower consumer cost.

Treasury's proper role, in this case, should be to foster this competition, by encouraging choice for consumers, rather than intervening in the market, which would have the effect of dissuading the creation of innovative products.

***Do such arrangements deny the recipient either: (a) an account at a financial institution, (b) access to such account, (c) access at a reasonable cost, or (d) the same consumer protections with respect to the account as other account holders at the same institution?***

Provider products offer similar access to funds as that afforded to other account holders at the depository institution, provide that access at a cost that is reasonable in today's marketplace, and protect consumers in the same way as other depositors.

1. *An account at a financial institution.* Funds are transferred electronically to a deposit account, as they would be with any other EFT deposit. While the recipient does not have access to other services, such as checking, the same would be true of an ETA. Therefore, a recipient accessing his funds through a Provider is no more disadvantaged than one with an ETA.

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2. *Access to such account.* The various products in the market place differ on how recipients obtain access to their funds. Nevertheless, most of these partnerships and enterprises are quite large and provide good access for consumers. For example, recipients who receive their payments through Western Union have the ability to access their funds through a nationwide network of some 25,000 locations. By comparison, 27 of the largest POS networks in the U.S., in a 1994 survey, averaged only 18,000 terminals. Although there has been consolidation in this industry in the past several years, this network, if included in the survey, would have been in the top 10 in terms of the number of point-of-service installations. This far exceeds the breadth of access, for example, that a community bank or credit union could offer.
3. *Access at a reasonable cost.* The issue of reasonable cost infers a comparison to something else. The cost structure of providing these accounts is different from the cost structure of providing a direct-deposit account, or an ETA. Therefore, it may not be accurate to compare Provider accounts with DDAs or ETAs.

A far more accurate standard of "reasonableness" is the cost of cashing a check at a commercial check-cashing operation ("CCO"). This is because the consumer who signs up for a Provider-vended account would be more likely to be converting from a paper (check) payment than from an existing DDA or other bank-based account.

According to one survey, the nationwide average cost of cashing a social security check at a CCO is 2.12 percent. (*Survey of Commercial Check Cashing Rates, © 1997 Chaddsford Planning Associates*). Assuming a face value of \$745 (a reasonable average) that fee would be \$15.79. Provider-vended accounts to date have fee structures that appear to be lower than this. Therefore, the cost of these accounts seem reasonable *when compared to the type of disbursement an unbanked recipient is most likely to choose.*

A second test of reasonableness is the market itself. In a market where there are sufficient options, as there are in this one, how do consumers react towards a given product? Initial indications from Provider are that consumers are signing up for these accounts. We believe that consumers find products like these, convenient, easy and safe to use, and cost beneficial.

While some may make the case that the planned ETAs are more cost beneficial, this theory is based on the assumption that all account access would take place at the financial institution holding the account (so-called "on-us" transactions). This may be true; however, this cost benefit declines if the recipient accesses those funds at a foreign or out-of-network ATM and the recipient incurs additional charges. And if the recipient restricts his transactions to the depository bank, his access is limited.

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Therefore, the initial success of Provider-vended accounts may indicate that consumers who sign up for these accounts value the additional convenience of a large network and find that convenience cost beneficial.

4. *The same consumer protections with respect to the account as other account holders at the same institution.* So long as the funds are deposited into a federally insured account, a consumer with a Provider-vended account will have the same protection as those other account holders at the financial institution where the funds are deposited.

***Regulations that may be appropriate for payment service Provider arrangements.***

We believe that Treasury's regulation of these products should end with the Receiving Depository Financial Institution. It may be sufficient for Treasury to insist that funds deposited with an RDFI are federally insured, and that the financial institution has some requirement to ensure the fiduciary responsibility of the Provider. However, there does not seem to be any evidence, which would indicate the need for regulation, that consumers have been egregiously harmed by the emergence of these products.

**Summary**

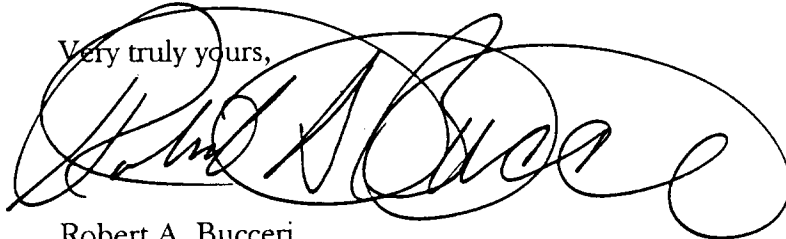
Regulating Provider-vended products, or mandating their exclusion from the EFT 99 process, deprives consumers of choice, negatively impacts competition in the market place, and would seem to be premature at this point.

We commend FMS for its diligence and perseverance in attempting to balance so many divergent points of view on EFT 99. However, we believe that the ultimate goal of EFT 99 should be the proliferation of electronic payments through the widest possible range of consumer choices. Regulating or prohibiting these choices, in the absence of any proof that such intervention is necessary, is antithetical to this objective.

On the other hand, encouraging new and innovative products will foster competition, lower prices, and increase product availability, which can only lead to a better deal for consumers.

We appreciate the opportunity to comment, and offer best wishes for your deliberations on this matter.

Very truly yours,

A large, stylized handwritten signature in black ink, appearing to read "Robert A. Bucceri". The signature is written over a horizontal line and extends across most of the width of the page.

Robert A. Bucceri

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